



General Assembly

***Amendment***

***February Session, 2010***

**LCO No. 5475**

**\*HB0527005475SD0\***

Offered by:

SEN. MCDONALD, 27<sup>th</sup> Dist.

REP. LAWLOR, 99<sup>th</sup> Dist.

REP. O'NEILL, 69<sup>th</sup> Dist.

SEN. KISSEL, 7<sup>th</sup> Dist.

To: Subst. House Bill No. **5270**

File No. 273

Cal. No. 557

(As Amended)

***"AN ACT CONCERNING FORECLOSURE MEDIATION."***

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2010*) (a) As used in this  
4 section:

5 (1) "Mortgagee" means the original lender or servicer under a  
6 mortgage, or its successors or assigns, who is the holder of any  
7 mortgage on residential real property securing a loan made primarily  
8 for personal, family or household purposes that is the subject of a  
9 foreclosure action.

10 (2) "Mortgagor" means the owner-occupant of one-to-four family  
11 residential real property located in this state who is also the borrower

12 under a mortgage encumbering such residential real property, which is  
13 the primary residence of such owner-occupant; and

14 (3) "Residential real property" means a one-to-four family dwelling  
15 occupied as a residence by a mortgagor.

16 (b) When a mortgagee commences an action for the foreclosure of a  
17 mortgage on residential real property with a return date on or after  
18 October 1, 2010, the mortgagee shall give notice to the mortgagor, in  
19 such form as the Chief Court Administrator prescribes, of the name,  
20 business mailing address, electronic mail address and telephone  
21 number of an individual that the mortgagor can contact who has  
22 authority, on behalf of the mortgagee, to process requests to refinance  
23 or modify the mortgage agreement or otherwise take action to avoid  
24 foreclosure of the mortgage. After a mortgagee provides such notice,  
25 the mortgagee may assign a different individual who has such  
26 authority to act as an individual the mortgagor may contact, provided  
27 the mortgagee gives the mortgagor notice, not later than seven  
28 calendar days after such individual is assigned, that permits the  
29 mortgagor to contact such individual, which notice shall include the  
30 name, business mailing address, electronic mail address and telephone  
31 number of such individual. Each notice under this subsection shall  
32 indicate the name of the individual and such individual's business  
33 mailing address, electronic mail address and telephone number in  
34 boldface type at least fourteen points in size.

35 (c) Notwithstanding any provision of the general statutes or any  
36 rule of law to the contrary, a court may delay the entry of a judgment  
37 of strict foreclosure or foreclosure by sale when, in the court's  
38 judgment, such delay is appropriate or required under the facts and  
39 circumstances of the case if the court finds that the mortgagee in an  
40 action instituted by the mortgagee to foreclose a mortgage on  
41 residential real property (1) failed to provide notice in accordance with  
42 subsection (b) of this section, (2) failed to respond within a reasonable  
43 amount of time to a request from the mortgagor to refinance or modify  
44 the mortgage agreement to avoid foreclosure of the mortgage, or (3)

45 engaged in conduct with respect to the mortgagor that the court  
46 determines would constitute an unfair or deceptive act or practice in  
47 violation of subsection (a) of section 42-110b of the general statutes.

48 (d) Notwithstanding any provision of the general statutes or any  
49 rule of law to the contrary, a court may delay the entry of a deficiency  
50 judgment on behalf of the mortgagee when, in the court's judgment,  
51 such delay is appropriate or required under the facts and  
52 circumstances of the case if the court finds that the mortgagee in an  
53 action instituted by the mortgagee to foreclose a mortgage on  
54 residential real property (1) failed to provide notice in accordance with  
55 subsection (b) of this section, (2) failed to respond within a reasonable  
56 amount of time to a request from the mortgagor to refinance or modify  
57 the mortgage agreement to avoid foreclosure of the mortgage, or (3)  
58 engaged in conduct with respect to the mortgagor that the court  
59 determines would constitute an unfair or deceptive act or practice in  
60 violation of subsection (a) of section 42-110b of the general statutes.

61 Sec. 502. Section 49-14 of the general statutes is repealed and the  
62 following is substituted in lieu thereof (*Effective October 1, 2010*):

63 (a) At any time within thirty days after the time limited for  
64 redemption has expired, any party to a mortgage foreclosure may file a  
65 motion seeking a deficiency judgment. Such motion shall be placed on  
66 the short calendar for an evidentiary hearing. Such hearing shall be  
67 held not less than fifteen days following the filing of the motion, except  
68 as the court may otherwise order. At such hearing the court shall hear  
69 the evidence, establish a valuation for the mortgaged property and  
70 shall render judgment for the plaintiff for the difference, if any,  
71 between such valuation and the plaintiff's claim, except as provided in  
72 subsection (d) of section 501 of this act. The plaintiff in any further  
73 action upon the debt, note or obligation, shall recover only the amount  
74 of such judgment.

75 (b) Upon the motion of any party and for good cause shown, the  
76 court may refer such motion to a state referee, who shall have and

77 exercise the powers of the court with respect to trial, judgment and  
78 appeal in such case.

79 (c) Any party to a mortgage foreclosure who has moved for an  
80 appraisal of property for the purpose of obtaining a deficiency  
81 judgment, but has not been granted a deficiency judgment, or has not  
82 received full satisfaction of any deficiency judgment obtained  
83 subsequent to the filing of such motion, may make a motion to the  
84 court for a deficiency judgment as set forth in subsection (a) of this  
85 section. If such motion is made on or before November 1, 1979, such  
86 moving party shall be deemed to have complied with all of the  
87 requirements of subsection (a) of this section and shall be entitled to  
88 the benefit of any deficiency judgment rendered pursuant to said  
89 subsection (a).

90 (d) Any appeal pending in the Supreme Court with regard to any  
91 deficiency judgment or proceedings relating thereto shall be stayed  
92 until a hearing is held pursuant to subsection (a) of this section. Any  
93 appellant in such an appeal shall have the right for a period of thirty  
94 days after the rendering of judgment pursuant to subsection (a) of this  
95 section to amend his appeal. There shall be no stay of such an appeal if  
96 no motion has been filed pursuant to this section on or before  
97 November 1, 1979."